

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

As can be understood by anyone who spends considerable time preparing meals in the kitchen, consumers would appreciate an easily-dosed, shallow frying agent which does not show spattering upon use. Common frying media such as margarine suffer from spattering, which is believed to be caused by super heating of water droplets. In addition to spattering, another disadvantage of frying products which is often encountered is formation of black or brown residue when, for example, biopolymers such as proteins are heated in a frying pan. It would be preferred that the easily dosed frying product shows little or no residue formation upon frying.

The present invention is directed to a composition comprising a specified amount of emulsifier, a specified fat content dispersed in an aqueous phase and an anti-spattering agent which shows very good spattering behavior, is storage stable, and does not lead to considerable sediment formation upon use. As recited in claim 1, the present invention comprises a pourable water continuous frying composition which is an emulsion and which has a Bostwick value at 15°C of at least 5, and which comprises greater than 50 and up to 80 wt. % fat, 0.1 to 5 wt. % salt and 0.05 to 2 wt. % lecithin as anti-spattering agent, 0.35 to 5 wt. % of at least one emulsifier having a hydrophilic/lipophilic balance value of at least 7 and optionally a biopolymer, the amount of biopolymer when added being at most being 0.3 wt. % on total composition weight, the fat being dispersed in a water phase as droplets that have an average droplet size (d43) of less than 8 microns. The invention is also directed in claim 10 to a process for preparing a pourable water-continuous frying composition comprising emulsifying a fat

phase including fat phase ingredients with an aqueous phase such that the resulting emulsion has an average fat droplet size d_{43} which is below 8 microns and in claim 12 to a process for preparing a foodstuff.

As noted above, the present claims concern a pourable water-continuous frying composition comprising more than 50 and up to 80 wt. % fat. The Office points to no teaching in the PAJ reference that this level of fat should be used. Moreover, although the Office suggests that in PAJ the seasoning is added to an oily stir fry pan so that more oil would be present in the final composition, there is no teaching or suggestion that such final composition would be a (stable) water-continuous emulsion. In other words, the present invention is a stable water continuous emulsion having a higher fat content than the composition of PAJ, whereas adding oil to the composition of PAJ while stir frying does not need to give a stable emulsion (and indeed the Office points to no indication that it does give a stable emulsion). Claims 1, 10 and 12 have been amended to specify that the present product is an emulsion. This is supported, for example, at page 3, lines 10-12 of the specification.

The present claims further recite the presence of at least 0.35 to 5 wt. % of at least one emulsifier having a hydrophilic/lipophilic balance value of at least 7. The PAJ abstract states that the seasoning contains 0.03 to 0.3 wt. % glycerol fatty acid ester, monoglyceride, sorbitan fatty acid ester and enzyme decomposition lecithin respectively having HLB of greater than or equal to 7. The Office indicates that page 5 of PAJ appears to state that more than 0.3 wt.% of emulsifier should be used. The statement in line 2 of page 5 that it needs more additions than 0.3% of the weight appears to refer to the situation where the HLB is smaller than 7 and seems to be characterized as "not desirable." Since the rest of the document seems to teach a HLB of greater than or equal to 7 (see the abstract) and in view of the frequent repetition of the 0.03 to 3 wt. % range, this seems not to be a teaching that greater than 0.3% should be used but rather

that a disadvantage of using HLB smaller than 7 is that more than 3% would need to be used. Therefore, this document does not seem to teach additions of more than 0.3 wt. % emulsifier. In addition, page 4 of PAJ appears to teach that more than 0.3 wt% of emulsifier will lead to burning of the food and off-flavors because of this, which is not desirable.

Claim 1 recites 0.1 to 5 wt. % salt and 0.05 to 2 wt. % lecithin as anti-spattering agent. The Office states that one would expect that the stir-fry is treated with soy sauce, however no indication for this assumption is found in the text. In addition, the Office point to no teaching of the amount of salt in PAJ. Salt is used as an anti-spattering agent in the present composition which, Applicants submit, was unexpected for water continuous emulsions. From PAJ there is no expectation of success in reducing the spattering behavior from the combined use of salt and lecithin in the amounts as recited by claim 1. Claim 1 has been amended to emphasize the anti-spattering effect consistent with original claims 1 and 2.

Claim 1 recites the droplet size to be less than 8 μm . PAJ teaches a droplet size 30 μm or less or 20 μm or less due to spattering (page 5 par 18 PAJ). The specification explains that a droplet size of less than 8 μm provides stable compositions which show little creaming (page 10). The Office points to nothing in PAJ that suggests this effect of the very small droplet size.

In view of the foregoing, Applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



Gerard J. McGowan, Jr.
Registration No. 29,412
Attorney for Applicant(s)

GJM/pod
(201) 894-2297